

**United States Court of Appeals
FOR THE EIGHTH CIRCUIT**

No. 07-1967

George Lemm,

Appellant,

v.

Omni Engineering, Inc.,

Appellee.

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* Appeal from the United States

* District Court for the

* District of Nebraska.

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* [UNPUBLISHED]

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Submitted: December 14, 2007

Filed: January 14, 2008

Before LOKEN, Chief Judge, WOLLMAN and SHEPHERD, Circuit Judges.

PER CURIAM.

George Lemm appeals from the district court's¹ adverse grant of summary judgment in his lawsuit against his former employer, Omni Engineering, brought under the Americans with Disabilities Act, 42 U.S.C. § 12101 et seq., and Title VII of the Civil Rights Act, 42 U.S.C. § 2000e et seq.

¹The Honorable Joseph F. Bataillon, Chief Judge, United States District Court for the District of Nebraska.

Having conducted a *de novo* review of the record, see Kratzer v. Rockwell Collins, Inc., 398 F.3d 1040, 1043 (8th Cir. 2005), we agree with the district court's conclusion that Lemm is not actually disabled because he is not limited in a major life activity, see Nuzum v. Ozark Auto. Distribs., Inc., 432 F.3d 839, 843-48 (8th Cir. 2005), and that Omni Engineering neither regarded Lemm as being disabled, see Christensen v. Titan Distrib., Inc., 481 F.3d 1085, 1093 (8th Cir. 2007), nor had a record which misclassified Lemm's impairment as a disability, see Taylor v. Nimock's Oil Co., 214 F.3d 957, 961 (8th Cir. 2000). Because Lemm has not met the first element of a *prima facie* case under the ADA, we do not address the issue of whether Omni Engineering should have reasonably accommodated him.

Accordingly, we affirm the well-reasoned opinion of the district court. See 8th Cir. R. 47B.
